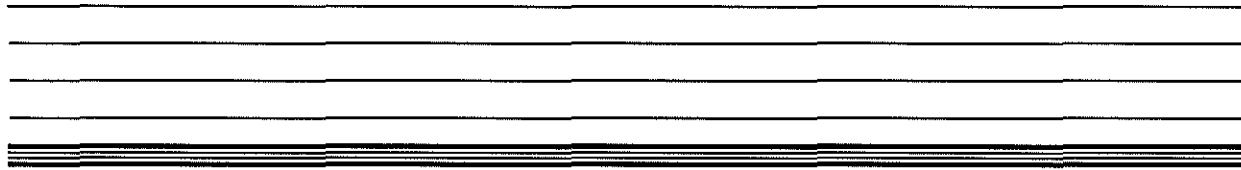


Oversight Division

Committee On Legislative Research

SUNSET REVIEW

**REBUILD MISSOURI SCHOOLS
PROGRAM**



Sunset Review

REBUILD MISSOURI SCHOOLS PROGRAM

*Prepared for the Committee on Legislative Research
by the Oversight Division*

Mickey Wilson, CPA, Director

Ross Strobe, Acting Director

*Review Team: Linda M Dudgeon
Helen Webster-Cox*

TABLE OF CONTENTS

COMMITTEE ON LEGISLATIVE RESEARCH	ii
LETTER OF TRANSMITTAL	iii
EXECUTIVE SUMMARY	iv
PURPOSE / OBJECTIVES	page 1
SCOPE	page 1
METHODOLOGY	page 1
BACKGROUND	page 2
COMMENTS	page 5

Committee on Legislative Research Oversight Subcommittee

THE COMMITTEE ON LEGISLATIVE RESEARCH, Oversight Division, is an agency of the Missouri General Assembly as established in Chapter 23 of the Revised Statutes of Missouri. The programs and activities of the State of Missouri cost approximately \$24.0 billion annually. Each year the General Assembly enacts laws which add to, delete or change these programs. To meet the demands for more responsive and cost effective state government, legislators need to receive information regarding the status of the programs which they have created and the expenditure of funds which they have authorized. The work of the Oversight Division provides the General Assembly with a means to evaluate state agencies and state programs.

THE COMMITTEE ON LEGISLATIVE RESEARCH is a permanent joint committee of the Missouri General Assembly comprised of the chairman of the Senate Appropriations Committee and nine other members of the Senate and the chairman of the House Budget Committee and nine other members of the House of Representatives. The Senate members are appointed by the President Pro Tem of the Senate and the House members are appointed by the Speaker of the House of Representatives. No more than six members from the House and six members from the Senate may be of the same political party.

Sunset reviews are assigned to the Oversight Division pursuant to Sections 23.250 to 23.298. After August 28, 2003, any new program authorized by the General Assembly shall sunset not more than six years after its effective date unless reauthorized by the General Assembly. The Oversight Division shall conduct a performance evaluation of the program as set forth in statute and prepare a written report. The report shall make recommendations on the sunset, continuation, or reorganization of a program.

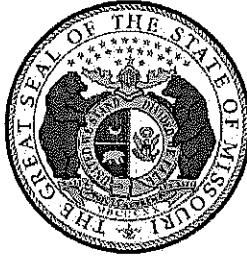
COMMITTEE ON LEGISLATIVE RESEARCH

Senators:

Senator Brad Lager, Chairman
Senator Jason Holsman
Senator Joe Keaveny
Senator Paul LeVota
Senator Brian Munzlinger
Senator Mike Parson
Senator Kurt Shaefer
Senator Scott Sifton
Senator Ryan Silvey
Senator Wayne Wallingford

Representatives:

Representative Tom Flanigan, Vice-Chairman
Representative Sue Allen
Representative Kimberly Gardner
Representative Denny Hoskins
Representative Tim Jones
Representative Chris Kelly
Representative Tom McDonald
Representative Mark Parkinson
Representative Tommie Pierson
Representative Rick Stream



SENATORS:

BRAD LAGER
Chair
JASON HOLSMAN
JOE KEAVENY
PAUL LEVOTA
BRIAN MUNZLINGER
MIKE PARSON
KURT SCHAEFER
SCOTT SIFTON
RYAN SILVEY
WAYNE WALLINGFORD

REPRESENTATIVES:

TOM FLANIGAN,
Vice Chair
SUE ALLEN
KIMBERLY GARDNER
DENNY HOSKINS
TIM JONES
CHRIS KELLY
TOM MCDONALD
MARK PARKINSON
TOMMIE PIERSON
RICK STREAM

**COMMITTEE ON LEGISLATIVE RESEARCH
STATE OF MISSOURI
STATE CAPITOL
JEFFERSON CITY, MISSOURI 65101**

Members of the General Assembly:

The Joint Committee on Legislative Research is required by Section 23.259.1(3), RSMo to conduct performance evaluations of sunseting programs to determine and evaluate program performance in accordance with program objectives, responsibilities, and duties as set forth by statute or regulation. The Oversight Division has reviewed the following programs:

- Alternative Fuel Infrastructure Tax Credit
- Breast Cancer Awareness Trust Fund
- Rebuild Missouri Schools Program
- Wartime Veteran's Survivors Grant Program
- Big Government Get Off My Back Act Income Tax Deduction

The reports include Oversight's comments on (1) the sunset, continuation, or reorganization of the programs, and on the need for the performance of the functions of the programs; (2) the duplication of program functions; (3) the appropriation levels for each program for which sunset or reorganization is recommended; and possibly (4) drafts of legislation necessary to carry out the committee's recommendations pursuant to (1) and (2) above.

We hope this information is helpful and can be used in a constructive manner for the betterment of the state program to which it relates. You may obtain a copy of the reports from the Oversight Division website at <http://www.moga.mo.gov/htmlpages/losunsetreview.html>.

Respectfully,


Senator Brad Lager
Chairman



EXECUTIVE SUMMARY

The Rebuild Missouri Schools Program (Program) was created to assist school districts pay for emergency projects to repair/replace facilities that were severely damaged or destroyed due to an act of God or an extreme weather event, such as a tornado, flood, or hail. The Program is administered by the Department of Elementary and Secondary Education (DESE) through the Rebuild Missouri Schools Fund. Federal Budget Stabilization Funds (through the American Recovery and Reinvestment Act) were appropriated in FY 2010 to the Program in the amount of \$5.332 million.

In order to qualify for a 20-year, interest-free loan under the Program, eligible school districts had to have projects located in an area declared as a disaster by the Governor or the President of the United States. Eligible school districts were required to submit a letter of application to DESE containing a description of the damage, documentation that the facility was in an area declared as a disaster, a description of the emergency project, and a proposed repayment plan. The amount of funding received by the eligible school district was not to exceed the cost of the project less any insurance proceeds or other moneys received by the school district as a result of the damage.

Oversight reviewed DESE's files for the two school districts that applied for and received funding through the Program - Caruthersville School District and Mansfield School District. In 2006, Caruthersville experienced significant damage to its high school and middle school campuses as a result of a tornado. A loan of \$5.3 million was requested and obtained by Caruthersville. In 2008, Mansfield suffered severe ice damage to its elementary and high school roof. Mansfield requested and received a loan of \$32,000.

Based on Oversight's review, Caruthersville made a repayment of \$265,000 FY 2011. In FY 2012 and FY 2013, Caruthersville submitted payments of \$900,000 each year. Correspondingly, in each of those two years DESE was appropriated \$900,000 to be remitted back to the Caruthersville School District, in effect, offsetting the Program payments the school district had made to the state. An appropriation of \$900,000 has also been appropriated for FY 2014. Mansfield has made its scheduled annual \$1,600 repayments in FYs 2011 - 2013.

Oversight recommends the Legislature consider allowing the Mansfield School District repayment program be treated similarly to that of the Caruthersville School District. The remaining balance of the two loans after FY 2013 is \$27,200 for Mansfield and \$3,235,000 for Caruthersville.

Since all of the original funds have been disbursed and statutes allow loan repayments to be processed through the General Revenue Fund if necessary, Oversight recommends the program be allowed to sunset.

Chapter 1

Purpose/Objectives

The General Assembly has provided by law that the Joint Committee on Legislative Research will conduct a performance evaluation of a program subject to the Missouri Sunset Act. The committee shall consider the criteria as listed in Section 23.268, RSMo in determining whether a public need exists for the continuation of a program, or for the performance of the functions of the program. A sunset review is the regular assessment of the continuing need for a state program to exist. A sunset review answers the basic questions of what has happened to this program since its inception and does the State of Missouri continue to “need” the services provided by the program.

The Joint Committee on Legislative Research directed the Oversight Division to conduct a Sunset Review of the Rebuild Missouri Schools Program administered through the Department of Elementary and Secondary Education (Section 160.459, RSMo). This report provides a status of the Rebuild Missouri Schools Program created by House Committee Substitute for Senate Committee Substitute for Senate Bill 1170 during the 2008 legislative session and fulfills the requirement as established by Section 23.265, RSMo.

The Oversight Division review addressed, but was not limited to the following:

1. Compiling and reviewing data related to the program since its inception.
2. Analyzing related events and changes to the program since its inception.

Scope

The Oversight Division researched the laws and activity regarding the Rebuild Missouri Schools Program from FY 2008 through FY 2013. Analysis included a review of the Department of Elementary and Secondary Education and State Emergency Management Agency data.

Methodology

The Oversight Division obtained information on the Rebuild Missouri Schools Program through correspondence and interviews with the Department of Elementary and Secondary Education (DESE), the State Emergency Management Agency, Senate Appropriations staff, House Appropriations staff, and Office of Administration - Division of Budget and Planning staff, as well as a review of project files.

Background

In 2008, the Legislature adopted House Committee Substitute for Senate Committee Substitute for Senate Bill 1170 which created the Rebuild Missouri Schools Program (Program) under Section 160.459, RSMo. The Program was created to assist school districts in paying the costs of emergency projects to repair/replace facilities severely damaged or destroyed due to an act of God or extreme weather event, including but not limited to tornado, flood or hail. The legislation also created a new fund in the state treasury to be known as the Rebuild Missouri Schools Fund.

Program funding is to be used by the school districts to pay for the cost of an emergency project. The project must be in an area declared as a disaster area by the Governor or by the President of the United States. The amount of funding is not to exceed the cost of the project less any insurance proceeds or other moneys received by the eligible district as a result of the damage. Program funding is to be in the form of an interest-free loan that the school district must repay in annual installments over a period of not more than 20 years to the Rebuild Missouri School Fund.

Repayments may then be used by the State Board of Education to provide additional funding under the program for other eligible projects. However, if the fund is no longer in existence, repayments shall be paid to the General Revenue Fund.

History

The Rebuild Missouri Schools Program was adopted in 2008 for the purpose of providing interest-free funding to eligible school districts to assist in paying the costs of emergency projects.

In FY 2009, the original appropriations request was for the Program to be funded from the General Revenue Fund, but was later supplanted with monies from the Federal Budget Stabilization Fund (American Recovery and Reinvestment Act) in FY 2010.

The Caruthersville School District received significant damage to its facilities as a result of an April 2, 2006 tornado. Damaged facilities included the high school campus, including the football stadium, main educational building, gymnasium, industrial arts building, and music building; the middle school campus, including the cafeteria which served both the high school and middle school; and the administration building.

Some of the damaged facilities were either replaced or repaired with insurance proceeds and eligible funding received from the Federal and State Emergency Management Agencies (FEMA, SEMA). However, additional funding was needed for rebuilding the high school education building, gymnasium, industrial arts building, middle school cafeteria; as well as repairing and renovating the music building and the administration building.

According to DESE, the Caruthersville School District put forth a local bond issue to rebuild/replace the damaged facilities, but it was defeated by the voters. However, with aid from FEMA, SEMA, limited insurance proceeds, and \$5.3 million from the loan program, the district was able to build a new high school, middle school cafeteria, and make other necessary repairs. Without the implementation of this legislation, Caruthersville would not have had the funds necessary to replace the damaged buildings.

On February 11, 2008, the Mansfield R-IV School District sustained severe ice damage to the elementary and high school roof. Ice pushed between the seams of the metal roof, causing numerous leaks. The repairs included coating and sealing the roof.

Program disbursements to the two qualifying school districts (Mansfield and Caruthersville) were made in FY 2010. A disbursement of \$32,000 was made to Mansfield in September, 2009, and eight disbursements totaling \$5,300,000 were made to Caruthersville beginning in August, 2009 and ending in April, 2010.

The Mansfield School District agreed to a 20 year repayment schedule of \$1,600 per year and has made these payments for FY 2011, FY 2012, and FY 2013. The Caruthersville School District agreed to a repayment schedule of \$265,000 annually for 20 years and made the payment in FY 2011. However, in FY 2012 and FY 2013, Caruthersville submitted payments of \$900,000 each year. Correspondingly, in each of those two years, the Department of Elementary and Secondary Education was appropriated \$900,000 to be remitted back to the Caruthersville School District, in effect offsetting the Program payments the school district had made to the state. An appropriation of \$900,000 has also been appropriated for FY 2014.

The following charts show the amount of monies received by the school districts for repairs and replacement of facilities.

TABLE 1: Disaster Proceeds to the Caruthersville School District

Insurance Proceeds	\$ 6,453,305
Federal Emergency Management Agency	\$ 8,428,817
State Emergency Management Agency	\$ 1,127,276
Rebuild Missouri Schools Program	\$ 5,300,000
Caruthersville School District expenditures	\$ 8,937,909
TOTAL REPAIR/REPLACEMENT COSTS	\$ 30,229,307

Source: DESE / SEMA / Caruthersville School District

TABLE 2: Disaster Proceeds to the Mansfield School District

Insurance Proceeds	\$ 21,000
Rebuilding Missouri Schools Program	\$ 32,000
Mansfield School District expenditures	\$ 1,272
TOTAL REPAIR COSTS	\$ 54,272

Source: DESE

Chapter 2

Comments

Application Files

In 2008, DESE filed administrative rules establishing application filing requirements for eligible school districts under the Program. These rules, 5 CSR 30-640.100, became effective July 30, 2009 and required applications for funding to be in the form of a letter of application that contained the following:

1. A description of the damage to the school district facility including photographs of the area of damage, insurance adjuster's report, report by emergency personnel, or an affidavit by the president of the local board of education;
2. Documentation that the facility is in an area that has been declared a disaster area by the President of the United States or the Governor of Missouri;
3. A description of the emergency project; and
4. A statement of proposed repayment, including a statement of the source of funds to be used for repayment.

Upon receipt of the letter of application, DESE must determine whether the application and accompanying documentation meet the requirements of Section 160.459, RSMo, and the rules.

Oversight requested to review the application files and supporting documentation from DESE for the two applicants for Program funds, Mansfield School District and Caruthersville School District. DESE was initially unable to provide the application file and supporting documents for the Caruthersville School District. However, upon request to the school district to provide the copies, DESE was able to procure the documents for Oversight staff to review.

Loan Repayment Program - Mansfield

As stated earlier, the Mansfield School District received a Program disbursement of \$32,000 in FY 2010 and has made three (out of twenty) scheduled \$1,600 payments back to the state (in FYs 2011, 2012, and 2013).

Loan Repayment Program - Caruthersville

Caruthersville School District received \$5.3 million from the Program and submitted a repayment plan indicating it would repay \$265,000 per year for 20 years. During the review of DESE's file information, Oversight noted that Caruthersville paid \$265,000 on its loan in FY

2011, but paid \$900,000 in FY 2012 and again in FY 2013.

During the review of House Bill 2, which appropriates moneys to the State Board of Education and the Department of Elementary and Secondary Education, for FYs 2012, 2013, and 2014, Oversight noted, in each year, \$900,000 was appropriated to DESE for “compensating eligible public school districts making a payment under the provisions of Section 160.459, RSMo” and that the funds would come from the Rebuild Missouri Schools Fund. This appropriation, in effect, offset the loan repayment Caruthersville made to the state. A similar appropriation is contained in the FY 2014 budget as well.

The program provides under 160.459.4(3) that “The eligible school district shall, subject to annual appropriation as provided in this section, repay the amount of the funding...” Subdivision (4) goes on to state “The repayment described in subdivision (3) of this subsection *shall annually be subject to an appropriation by the board of education* of the eligible school district to make such repayment, *such appropriation to be, at the discretion of the eligible school district...*” (emphasis added). And, subdivision (5) provides that “As security for the repayment, a pledge from the eligible school district to the state board of education of the use and occupancy of the school facilities constituting the emergency project for a period ending not earlier than the date the repayment shall be completed. There are no penalty provisions in statutes if repayment of the loaned funds are not made and repayment is “subject to appropriation” of the board of education of the school district. There is nothing in statutes providing the school district’s board of education must appropriate funds to repay the Rebuild Missouri Schools Program loan.

Program Continuation

Possible options available to the Missouri General Assembly include letting the program expire or extending the sunset of the program:

1. First, the General Assembly could allow the program to sunset in August, 2014 by taking no further action regarding this program.
2. Second, the General Assembly can extend the sunset up to an additional twelve years (approximately until August, 2026).
3. Third, the General Assembly could extend the program for a period of time less than the stated twelve years.

Recommendations

1. Since the two loans are not being treated similarly by the state, Oversight recommends the Legislature consider allowing the Mansfield School District repayment program to be treated the same as that of the Caruthersville School District. The remaining balance of the two loans after FY 2013 is \$27,200 from Mansfield and \$3,235,000 from Caruthersville.

2. Subdivision 160.459.4(3), RSMo, specifies that if the Rebuild Missouri Schools Fund is no longer in existence, loan payments shall be made into the state's General Revenue Fund. Subsection 160.459.9, RSMo, further states that any moneys remaining in the fund at the end of the biennium shall revert to the credit of the General Revenue Fund. Therefore, if the program sunsets, the state will still be able to process these loan payments. Oversight recommends that since all funds have been disbursed and the loan repayments can still be applied, the program be allowed to sunset.